

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION

UNITED STATES OF AMERICA,)
Plaintiff,)
vs.) CRIMINAL CASE NO. RDB-15-0457
PAUL JONES,)
Defendant.)

)

Thursday, November 5, 2015
Courtroom 5D
Baltimore, Maryland

BEFORE: THE HONORABLE RICHARD D. BENNETT, JUDGE

REARRAIGNMENT

For the Plaintiff:

Clinton Fuchs, Esquire
Assistant United States Attorney

For the Defendant:

Lisa W. Lunt, Esquire
Assistant Federal Public Defender

Also Present:

Melissa McGuinness, U.S. Probation Officer

Reported by:

Douglas J. Zweizig, RDR, CRR
Federal Official Court Reporter
101 W. Lombard Street, 4th Floor
Baltimore, Maryland 21201

PROCEDINGS

(4:04 p.m.)

THE COURT: Sorry to keep you all waiting. We've had a busy day here.

This is calling the matter of United States versus Paul Jones, Criminal No. RDB-15-0457. I've been advised today, earlier, that the defendant is proffering a plea of guilty to Count 2 of the indictment in this case.

He is the only defendant charged in a two-count indictment, and he's proffering a plea of guilty to Count 2, charging him with possession with intent to distribute a controlled substance, in violation of 21 United States Code, Section 841.

If counsel would identify themselves for the record, please.

MR. FUCHS: Good afternoon, Your Honor. Clinton Fuchs on behalf of the United States

THE COURT: Yes. Mr. Fuchs, nice to see you.

On behalf of the defendant?

MS. LUNT: Yes. Good afternoon, Your Honor.

Lisa Lunt, Assistant Federal Public Defender, and I'm here with
Mr. Jones.

THE COURT: Yes, Ms. Lunt. Nice to see you again.

MS. LUNT: Yes, they did.

1 **THE COURT:** It's nice to see you, as always. Welcome.

2 **MS. LUNT:** My pleasure. Thank you.

3 **THE COURT:** Good afternoon to you, Mr. Jones.

4 **THE DEFENDANT:** How you doing?

5 **THE COURT:** You have been charged in a two-count
6 indictment in this case, Mr. Jones: In Count 1 with possession
7 of a firearm by a convicted felon, in violation of
8 18 United States Code, Section 922(g)(1); and then in Count 2,
9 possession with intent to distribute a mixture or substance
10 containing a detectable amount of heroin, a Schedule I
11 controlled substance.

12 And you're proffering a plea of guilty to Count 2 of
13 the indictment.

14 But more importantly, you're proffering that plea of
15 guilty pursuant to Rule 11(c)(1)(C) of the Federal Rules of
16 Criminal Procedure, as I understand it.

17 And in Paragraph 9 of the plea agreement, which will
18 be introduced as Government Exhibit 1 during these proceedings
19 today, you have agreed with the Government that the appropriate
20 sentence in this case is 120 months.

21 Do you understand that, sir?

22 **THE DEFENDANT:** Yes.

23 **THE COURT:** And, in fact, Mr. Fuchs, that's the
24 mandatory minimum by statute in this case; is that right?

25 **MR. FUCHS:** The mandatory minimum, no, sir, it is not.

1 **THE COURT:** What is the mandatory minimum in this
2 case?

3 **MR. FUCHS:** The mandatory minimum on Count 1 would be
4 15 years, sir, because we believe --

5 **THE COURT:** Yes. I understand. Is there a mandatory
6 minimum or not?

7 **MR. FUCHS:** There is not on Count 2, Your Honor.

8 **THE COURT:** All right. Now, I'm certainly willing to
9 accept that plea under that rule, Mr. Jones. What that means
10 is that if for any reason I was inclined to sentence you to one
11 day more than 120 months, one day more than ten years, you'd be
12 free to withdraw your plea of guilty.

13 Do you understand that?

14 **THE DEFENDANT:** Yes.

15 **THE COURT:** By the same token, pursuant to
16 Paragraph 9, if I were inclined to sentence you to one day less
17 than ten years, the Government could be free to seek to
18 withdraw from the agreement.

19 Do you understand that?

20 **THE DEFENDANT:** Yes.

21 **THE COURT:** I'll certainly accept your guilty plea
22 here today under that rule.

23 And Ms. Melissa McGuinness, the U.S. Probation
24 Officer, is in court.

25 You've been with me all day, Ms. McGuinness. I gather

1 you're just hanging around for your duty. Are you actually
2 assigned to this case?

3 **PROBATION OFFICER:** I am not, Your Honor.

4 **THE COURT:** Okay. Do you know who is?

5 **PROBATION OFFICER:** No, not yet.

6 **THE COURT:** Okay. All right. But thank you very much
7 for staying around. Nice to have you.

8 A probation officer like Ms. McGuinness will prepare a
9 report. It will go to Mr. Fuchs; it will go to Ms. Lunt, the
10 Assistant Federal Public Defender, and to Mr. Fuchs, the
11 Assistant U.S. Attorney.

12 She will review it with you. Both sides can note any
13 objection to it. Then it will ultimately come to me, and then
14 I review it.

15 And presuming that I find that it's a reasonable range
16 in light of your -- the presentence report, I have every reason
17 to believe that that will be the sentence. There won't be any
18 surprises -- when you return here to me in February, there
19 won't be any surprises here on this sentence.

20 But if for some reason I find that's not an
21 appropriate sentence, I will tell Mr. Fuchs and I'll tell
22 Ms. Lunt.

23 Do you understand that?

24 **THE DEFENDANT:** Yes, sir.

25 **THE COURT:** Okay. So with that process, I think we're

1 ready to proceed with the -- and this is a rearraignment on
2 this case, Madam Clerk?

3 **THE CLERK:** Yes.

4 Good afternoon, sir. Please raise your right hand.

5 PAUL JONES, SWORN.

6 **THE CLERK:** Thank you. You may put your hand down.

7 Please state your full name for the record.

8 **THE DEFENDANT:** Paul Clifton Jones, III.

9 **THE CLERK:** What is your age?

10 **THE DEFENDANT:** 43.

11 **THE CLERK:** Just the year you were born.

12 **THE DEFENDANT:** '72.

13 **THE CLERK:** Mr. Jones, on October the 30th of this
14 year, 2015, you appeared before the Court; at that time you
15 were arraigned and you entered a plea of not guilty as to
16 Counts 1 and 2 of the indictment.

17 Do you wish to change your plea at this time as to
18 Count 2?

19 **THE DEFENDANT:** Yes.

20 **THE CLERK:** How do you wish to plead as to Count 2?

21 **THE DEFENDANT:** Guilty.

22 **THE CLERK:** The plea is guilty as to Count 2 and not
23 guilty as to Count 1; is that correct?

24 **THE DEFENDANT:** Yes.

25 **THE CLERK:** Thank you.

1 **THE COURT:** Mr. Jones, do you understand, sir, that
2 you're now under oath?

3 **THE DEFENDANT:** Yes.

4 **THE COURT:** And do you understand that if you were to
5 answer my questions falsely, those answers could later be used
6 against you in another prosecution for perjury or for making
7 false statements?

8 **THE DEFENDANT:** Yes.

9 **THE COURT:** So it's very important you answer my
10 questions truthfully. If you don't understand a question,
11 we'll just stop, you talk to Ms. Lunt, and then we'll proceed.
12 Okay?

13 **THE DEFENDANT:** Yes.

14 **THE COURT:** How far did you get in school?

15 **THE DEFENDANT:** 12th grade, graduated.

16 **THE COURT:** All right. You are a high school
17 graduate?

18 **THE DEFENDANT:** Yes, sir.

19 **THE COURT:** All right. And can you read and write the
20 English language?

21 **THE DEFENDANT:** Yes, sir.

22 **THE COURT:** And have you been treated recently for any
23 mental illness or addiction to narcotic drugs of any kind?

24 **THE DEFENDANT:** No.

25 **THE COURT:** Are you currently under the influence of

1 any drugs or medication or any alcoholic beverage of any kind?

2 **THE DEFENDANT:** No.

3 **THE COURT:** Ms. Lunt, are you satisfied that your
4 client is competent to proceed with this guilty plea here
5 today?

6 **MS. LUNT:** Yes, I am.

7 **THE COURT:** Have you received a copy of the two-count
8 indictment in this case, Mr. Jones; that is, the written
9 charges made against you?

10 **THE DEFENDANT:** Yes.

11 **THE COURT:** And have you fully discussed these charges
12 with your attorney, Ms. Lunt --

13 **THE DEFENDANT:** Yes.

14 **THE COURT:** -- the Assistant Federal Public Defender?

15 **THE DEFENDANT:** Yes.

16 **THE COURT:** Have you discussed the whole situation
17 with her, including the evidence in the case?

18 **THE DEFENDANT:** Yes.

19 **THE COURT:** Witnesses you might want to call if the
20 case went to trial?

21 **THE DEFENDANT:** Yes.

22 **THE COURT:** Possibility of a trial?

23 **THE DEFENDANT:** Yes.

24 **THE COURT:** And even an appeal if a jury found you
25 guilty in this case?

1 **THE DEFENDANT:** Yes.

2 **THE COURT:** Are you fully satisfied with Ms. Lunt and
3 her representation and the advice which she's given you?

4 **THE DEFENDANT:** Yes, sir.

5 **THE COURT:** Is there anything you've asked her to do
6 which she's not done?

7 **THE DEFENDANT:** No.

8 **THE COURT:** The Court has been advised that there's a
9 plea agreement in this case which has been set forth in a
10 letter of November 3rd, 2015, from Assistant U.S. Attorney
11 Clinton Fuchs to your attorney, Assistant Federal Public
12 Defender Lisa Lunt. The original of that letter has been
13 marked as Government Exhibit 1.

14 And, Ms. Lunt, if you'll come to the clerk's desk and
15 retrieve it.

16 Conference at the bench.

17 (It is the policy of this court that every guilty plea and
18 sentencing proceeding include a bench conference concerning
19 whether the defendant is or is not cooperating.)

20 **THE COURT:** Do you understand that pursuant to this
21 plea agreement, Mr. Jones -- pursuant to Paragraph 15 of the
22 plea agreement, do you understand that I'm not a party to the
23 agreement?

24 Do you understand that?

25 **THE DEFENDANT:** Yes.

1 **THE COURT:** It is a (C) plea, but I'm not a party to
2 it, per se.

3 Do you understand that?

4 **THE DEFENDANT:** Yes.

5 **THE COURT:** And has anyone in any way tried to force
6 you or threaten you to plead guilty in this case?

7 **THE DEFENDANT:** No.

8 **THE COURT:** Are you pleading guilty on your own freely
9 and because you're, in fact, guilty of the offense as charged
10 in Count 2?

11 **THE DEFENDANT:** Yes.

12 **THE COURT:** Do you understand the offense to which
13 you're pleading guilty, possession with intent to distribute a
14 controlled substance, in violation of 21 United States Code,
15 Section 841, specifically heroin, is a felony offense?

16 **THE DEFENDANT:** Yes.

17 **THE COURT:** And do you understand that if I accept
18 your plea of guilty to that offense here this afternoon, you
19 will be deprived of certain civil rights?

20 Do you understand that?

21 **THE DEFENDANT:** Yes.

22 **THE COURT:** You lose the right to have a gun. You
23 lose the right to have ammunition. You lose the right to vote.

24 Do you understand that?

25 **THE DEFENDANT:** Yes.

1 **THE COURT:** Your client is an American citizen;
2 correct, Ms. Lunt?

3 **MS. LUNT:** That's correct.

4 **THE COURT:** But you may also lose certain rights with
5 respect to licenses or permits, Mr. Jones. You might lose
6 certain public benefits, such as public housing, for example,
7 or educational loans, certain federal government grant
8 programs. You would lose the privilege to participate in
9 those, say, for example, Section 2 -- 8 housing, for example,
10 and vouchers for housing. You lose all of those rights because
11 of a felony conviction.

12 Do you understand that?

13 **THE DEFENDANT:** Yes.

14 **THE COURT:** Okay. I mean, the bottom line is you're
15 going to be incarcerated for a period of ten years, but I'm
16 just trying to make sure that -- there's certain benefits you
17 lose because of a felony conviction here.

18 Do you understand that?

19 **THE DEFENDANT:** Yes.

20 **THE COURT:** And if you were to be on parole or
21 probation for another offense, you might be violated because of
22 your conviction in this case.

23 Do you understand that?

24 **THE DEFENDANT:** Yes.

25 **THE COURT:** And furthermore, if you were to commit

1 another crime in the future and be before another judge, you
2 may or may not receive a harsher sentence because of your
3 sentence in this case.

4 Do you understand that?

5 **THE DEFENDANT:** Yes.

6 **THE COURT:** And you also may face the potentiality of
7 forfeiture of certain property. I don't know if that's
8 applicable here or not, Mr. Fuchs. Is there an issue of
9 forfeiture of property here?

10 **MR. FUCHS:** Only as to two weapons, Your Honor.

11 **THE COURT:** Just to two weapons. But you face the
12 forfeiture of those two weapons.

13 Do you understand that, Mr. Jones?

14 **THE DEFENDANT:** Yes.

15 **THE COURT:** And as was noted in Paragraph 3 of the
16 plea agreement, do you understand that the maximum sentence
17 provided by statute for this offense is specifically a maximum
18 sentence of 20 years' imprisonment, a period of supervised
19 release of at least 3 years, and a fine of \$1 million? That's
20 not to suggest that would even be the penalty because it's an
21 agreed plea here with an agreed sentence of 10 years,
22 120 months. But they are the maximums that are provided by
23 statute.

24 Do you understand that?

25 **THE DEFENDANT:** Yes.

1 **THE COURT:** And you must pay a \$100 special
2 assessment, but that would just be deducted from your prison
3 wages.

4 Do you understand that, sir?

5 **THE DEFENDANT:** Yes, sir.

6 **THE COURT:** Are you satisfied, then, that you
7 understand all the possible consequences of your plea of
8 guilty, Mr. Jones?

9 **THE DEFENDANT:** Yes.

10 **THE COURT:** Let me just explain to you -- I made
11 reference to supervised release. Supervised release involves
12 your compliance with certain conditions set by the Court and
13 monitored by the probation office.

14 Do you understand that if you were to violate
15 conditions of supervised release after a period of
16 incarceration, you could be sent back to prison and given
17 additional time back in prison because of that violation
18 without any credit for time already served?

19 Do you understand that?

20 **THE DEFENDANT:** Yes.

21 **THE COURT:** It would be a totally separate matter.

22 Do you understand?

23 **THE DEFENDANT:** Yes.

24 **THE COURT:** Are you satisfied, then, with respect to,
25 again, all these -- do you understand all the possible

1 consequences of your plea?

2 **THE DEFENDANT:** Yes.

3 **THE COURT:** Let me just go over the process here for
4 sentencing in Federal Court, Mr. Jones.

5 There are two key Supreme Court opinions issued by the
6 United States Supreme Court in the last almost 11 years now
7 that outline the process for sentencing in Federal Court.

8 First of all, in the case of United States versus
9 Booker, in January of 2005, the United States Supreme Court
10 held that the Federal Sentencing Guidelines are Constitutional.
11 But the Court held that they are Constitutional with the
12 deletion of two particular provisions which had made the
13 guidelines mandatory.

14 The Supreme Court noted that with the deletion of
15 those two provisions, the guidelines were Constitutional, but
16 they were advisory and not mandatory.

17 Do you understand the distinction?

18 **THE DEFENDANT:** Yes.

19 **THE COURT:** There's nothing mandatory about the
20 guidelines. If there would have been a mandatory sentence, if
21 you pled guilty apparently to Count 1 -- there's nothing
22 mandatory here about -- as I've confirmed with the Government,
23 there's no mandatory minimum here as to Count 2. There's
24 nothing mandatory about the guidelines.

25 What is essentially going to be mandatory is you've

1 reached an agreement with the Government as to the appropriate
2 sentence, and I will apply that. But there's nothing mandatory
3 about the guidelines.

4 And under the approach adopted by the Supreme Court,
5 the guidelines are rendered effectively advisory to federal
6 judges. And federal judges should take the guidelines into
7 account when imposing a sentence, which means I'll look at what
8 the guideline range would ordinarily be anyway and determine if
9 I think a ten-year sentence is an appropriate sentence.

10 Do you understand that?

11 **THE DEFENDANT:** Yes.

12 **THE COURT:** And then in the second of the two key
13 Supreme Court opinions, in the case of Gall versus the
14 United States, the Supreme Court noted that it's a multistep
15 process.

16 First, there will be a calculation of the guideline
17 range. All this will be done ahead of time by the
18 U.S. Probation Officer. And then I'll look at it.

19 And then there's the consideration of other factors
20 apart from the guideline range. So that's going to be the
21 process.

22 Do you understand that?

23 **THE DEFENDANT:** Yes.

24 **THE COURT:** And specifically in Paragraph 5 of the
25 plea agreement, you agree that the guidelines apply.

1 Do you understand that?

2 **THE DEFENDANT:** Yes.

3 **THE COURT:** And there is a factual stipulation -- I'll
4 hear from Mr. Fuchs in a minute -- with respect to the factual
5 predicate for this Court's acceptance of a guilty plea. But
6 there's also a stipulation of the guidelines that apply in this
7 case in Paragraph 6.

8 Essentially, it's anticipated that in light of the
9 drug quantity involved and your career offender status, because
10 of your prior criminal record, it's anticipated that there is a
11 total offense level of 29 with a criminal history category
12 of VI.

13 Do you understand that, Mr. Jones?

14 **THE DEFENDANT:** Yes.

15 **THE COURT:** But, again, this is a career offender
16 status, Mr. Fuchs, not an armed career criminal status.

17 **MR. FUCHS:** That's absolutely correct.

18 **THE COURT:** So there's nothing mandatory about
19 anything that's applied there, and that's why I have no doubt
20 that I will -- that the sentence would be ten years as you've
21 agreed.

22 There are no other guideline issues in dispute. And
23 as I've noted in Paragraph 9 of the plea agreement, it's an
24 agreed sentence of 120 months as the appropriate disposition
25 here.

1 And at the time of sentencing, the Government will
2 recommend a period of 120 months as set forth in the
3 obligations of the U.S. Attorney's Office at the time that you
4 return.

5 I would also note that the Government will recommend
6 that any sentence you receive from me is concurrent with any
7 sentence that you're now serving for violation of probation in
8 the Circuit Court for Baltimore City.

9 Do you understand that?

10 **THE DEFENDANT:** Yes.

11 **THE COURT:** All right. And the Government will make
12 that recommendation as well.

13 Now, I'll not be able to determine the Advisory
14 Guideline range in this case, Mr. Jones, until after a
15 U.S. Probation Officer -- not Ms. McGuinness, but one of her
16 colleagues -- prepares the presentence investigation report and
17 after both you and the Government have an opportunity to review
18 it.

19 Do you understand that?

20 **THE DEFENDANT:** Yes.

21 **THE COURT:** As I mentioned earlier, you'll see it
22 before I do. Ms. Lunt can note any objections to it.
23 Mr. Fuchs can note any objections to it. And then ultimately
24 it comes back to me for the imposition of sentence.

25 Do you understand that?

1 **THE DEFENDANT:** Yes.

2 **THE COURT:** Mr. Jones, also, do you understand that
3 parole has been abolished in the federal system?

4 Let me explain that to you. A ten-year sentence in
5 the state system translates out to about three years. You
6 serve maybe one-third of your time; then you're on parole for
7 seven years.

8 So a ten-year sentence is really not a ten-year
9 sentence because you serve maybe one-third of the time,
10 generally, maybe a little bit more than that. That's not the
11 way the federal system works. A ten-year sentence is a
12 ten-year sentence. You can get good-time credit of between 50
13 and 54 days a year from the Bureau of Prisons.

14 So over the course of some eight years, you might
15 knock a whole year of your sentence off for good-time credit.

16 Do you understand that?

17 **THE DEFENDANT:** Yes.

18 **THE COURT:** So it may not actually work out to ten
19 years. It may work out to eight and a half years or whatever
20 because of good-time credit, but there's no parole in the
21 federal system.

22 Do you understand that?

23 **THE DEFENDANT:** Yes.

24 **THE COURT:** And with respect to your rights of appeal,
25 you have waived certain rights of appeal in this plea

1 agreement, particularly Paragraph 13. Again, because it's a
2 (C) plea, there is an agreed sentence of 120 months.

3 And under Paragraph 13D, you waive any rights under
4 what is known as the Freedom of Information Act, Mr. Jones.
5 That is an act that was passed by the U.S. Congress that
6 permits American citizens to seek information from government
7 agencies.

8 You've had access to discovery in this case through
9 your attorney, Ms. Lunt, the Assistant Federal Public Defender.
10 But now that you're pleading guilty, you have no further right
11 to seek information from the Government on this offense,
12 meaning you have no right to file a Freedom of Information Act
13 request seeking further information about this case.

14 Do you understand that?

15 **THE DEFENDANT:** Yes.

16 **THE COURT:** Now, I want to go over your waiver here
17 that's set forth in Paragraph 4 of the plea agreement. This
18 case was set to go to trial in about a week and a half, on
19 November the 16th of this year, just a week from this coming
20 Monday. Today is November the 5th.

21 So you understand that you still have a right to plead
22 not guilty to any charges against you and you'd have a right to
23 a trial by jury in about 11 days for which 12 people would be
24 selected as jurors?

25 **THE DEFENDANT:** Yes.

1 **THE COURT:** And do you understand you'd have the right
2 to participate with Ms. Lunt in the selection of a jury in this
3 case?

4 **THE DEFENDANT:** Yes.

5 **THE COURT:** And do you also understand that at trial,
6 you'd be presumed to be innocent?

7 **THE DEFENDANT:** Yes.

8 **THE COURT:** And the Government would have to prove
9 your guilt beyond a reasonable doubt?

10 **THE DEFENDANT:** Yes.

11 **THE COURT:** And do you understand there would have to
12 be a unanimous verdict of all 12 jurors before you could be
13 convicted on either count? There would have to be a unanimous
14 verdict on each count, separately, if you went to trial on this
15 two-count indictment.

16 Do you understand that?

17 **THE DEFENDANT:** Yes.

18 **THE COURT:** And do you also understand you'd have the
19 right to the assistance of your attorney for your defense and
20 the right to see and hear all witnesses and to cross-examine
21 all witnesses?

22 **THE DEFENDANT:** Yes.

23 **THE COURT:** And on your own part, you would have the
24 right to decline to testify unless you voluntarily elected to
25 testify in your own defense.

1 Do you understand that?

2 **THE DEFENDANT:** Yes.

3 **THE COURT:** The Fifth Amendment to our Constitution
4 does not permit the Government to call you as a witness against
5 yourself. You could decline to testify.

6 But if you did go to trial and if you did testify, you
7 could be subject to impeachment on cross-examination by
8 Mr. Fuchs and you could be questioned about any prior criminal
9 record that you have.

10 Do you understand that?

11 **THE DEFENDANT:** Yes.

12 **THE COURT:** And do you also understand that if you
13 decided to go to trial but not testify or put on any evidence
14 at all, that those facts would not be used against you?

15 **THE DEFENDANT:** Yes.

16 **THE COURT:** If you went to trial but didn't testify or
17 put on any evidence, I would specifically tell the jury --
18 before they deliberated, I would tell them that they should not
19 consider that in any way.

20 I would explain to the jury that the burden is always
21 on the Government and never shifts to a criminal defendant;
22 that the Government has to prove guilt beyond a reasonable
23 doubt; the defendant doesn't have to prove his innocence.

24 Do you understand that, sir?

25 **THE DEFENDANT:** Yes.

1 **THE COURT:** And do you understand that you'd have the
2 right to the issuance of subpoenas for the compulsory process
3 to compel the attendance of witnesses to testify in your
4 defense?

5 **THE DEFENDANT:** Yes.

6 **THE COURT:** Meaning it isn't just the Government which
7 can compel people to come in here to the courtroom. You could
8 give Ms. Lunt the names of any individuals whom you wanted to
9 call as witnesses; she would give those names to the Deputy
10 Clerk of Court.

11 Because you're indigent, represented by the Public
12 Defender's Office, at no cost to you, those subpoenas would be
13 served and those people would be required to come into the
14 courtroom, just as the Government can require people to come
15 into the courtroom.

16 Do you understand that?

17 **THE DEFENDANT:** Yes.

18 **THE COURT:** And if there was a trial in this case and
19 if you were found guilty on either one of the charges, you
20 could appeal the verdict -- the verdict of guilty, as well as
21 any sentence imposed. There would be no limit to your right of
22 appeal as there is now.

23 Do you understand that, Mr. Jones?

24 **THE DEFENDANT:** Yes.

25 **THE COURT:** And furthermore, by entering this plea of

1 guilty, if I accept that plea in a few moments, do you
2 understand that there will be no trial and you will have waived
3 or given up your right to a trial as well as all the other
4 rights associated with a trial as I have just described them?

5 **THE DEFENDANT:** Yes.

6 **THE COURT:** Now, the charge to which you're pleading
7 guilty is set forth in Count 2 of the indictment, and the
8 elements are summarized in Paragraph 2. They are that, first
9 of all, on or about May 28th of this year, 2015, in the
10 District of Maryland, that you knowingly possessed a quantity
11 or mixture of a substance containing a detectable amount of
12 heroin and that you possessed the heroin with the intent to
13 distribute it.

14 Do you understand the basic elements of the offense to
15 which you're pleading guilty here this evening?

16 **THE DEFENDANT:** Yes.

17 **THE COURT:** All right. With that, you may be seated
18 for a few minutes, and I'll call upon Assistant U.S. Attorney
19 Clinton Fuchs to summarize and make a representation concerning
20 the facts the Government would be prepared to prove at trial so
21 as to establish an independent factual basis for this plea.

22 And I would note that the factual basis for this plea
23 is also contained in Paragraph 6A of the plea agreement letter.

24 Mr. Fuchs.

25 **MR. FUCHS:** Thank you, Your Honor.

1 Your Honor, at trial, the Government would have shown
2 that on May 28th, 2015, officers of the Baltimore City Police
3 Department executed a search-and-seizure warrant at the
4 defendant, Paul Jones', home located at 32 Upmanor Road in
5 Baltimore City, Maryland.

6 The defendant was found in the home at the time of the
7 search. And from the defendant's bedroom, the officers
8 recovered 118 gelcaps of suspected heroin, as well as cutting
9 agents and other drug packaging paraphernalia.

10 Officers also recovered from the defendant's bedroom a
11 Hi-Point Model JH .45-caliber semi-automatic pistol,
12 Serial No. 314640, and a Beretta Model 92FS 9-millimeter
13 semi-automatic pistol, Serial No. BER191826Z.

14 The defendant was Mirandized and admitted to
15 possessing the firearms.

16 The suspected narcotics were tested and found to be
17 heroin. The Beretta and Hi-Point pistols were test-fired, and
18 both were found to be capable of expelling a projectile by the
19 action of an explosive.

20 Prior to their recovery by the police, the defendant
21 possessed both the firearms and the heroin. The defendant
22 possessed the heroin with the intent to distribute those
23 narcotics.

24 The defendant possessed the firearms in furtherance of
25 his drug trafficking. Specifically, the defendant possessed

1 the firearms to protect himself and his supply of narcotics.

2 **THE COURT:** Thank you very much, Mr. Fuchs.

3 If you'll please stand, Mr. Jones.

4 Ms. Lunt, are there any additions or modifications?

5 **MS. LUNT:** No, Your Honor.

6 **THE COURT:** Mr. Jones, is that an accurate summary of
7 the facts in this case?

8 **THE DEFENDANT:** Yes.

9 **THE COURT:** Did you, in fact, commit the crime as
10 summarized by the Government?

11 **THE DEFENDANT:** Yes.

12 **THE COURT:** Do you still wish to plead guilty?

13 **THE DEFENDANT:** Yes.

14 **THE COURT:** Specifically, then, Mr. Jones, how do you
15 plead to Count 2 of the indictment in this case, guilty or not
16 guilty?

17 **THE DEFENDANT:** Guilty.

18 **THE COURT:** Ms. Lunt, is there any reason that you
19 know of why this Court should not accept this plea of guilty?

20 **MS. LUNT:** There is no reason, Your Honor.

21 **THE COURT:** It is the finding of this Court in the
22 case of United States versus Paul Jones,
23 Criminal No. RDB-15-457, that the defendant is fully competent
24 and capable of entering an informed plea and that the defendant
25 is aware of the nature of the charges and the relevant

1 consequences of his plea of guilty.

2 And the Court further finds that this plea of guilty,
3 on the advice of competent counsel, with whose services
4 Mr. Jones is satisfied, is a knowing and voluntary plea,
5 supported by independent bases in fact sustaining each of the
6 essential elements of the offense.

7 The plea is to be accepted, and the defendant is now
8 adjudged guilty of the offense as set forth in Count 1 of the
9 superseding indictment -- I'm sorry, Count 1 of the indictment.
10 This is not a superseding indictment -- or is it a superseding
11 indictment?

12 **MR. FUCHS:** No, Your Honor. It's an indictment. And
13 I'm sorry. It's Count 2.

14 **THE COURT:** I'm sorry. Count 2. Excuse me. Is now
15 adjudged guilty of the offense charged in Count 2 of the
16 indictment, specifically Count 2 charging him with possession
17 with intent to distribute a controlled substance, in violation
18 of 21 United States Code, Section 841.

19 Mr. Jones, a written presentence investigation report
20 will be prepared by a U.S. Probation Officer to assist the
21 Court in sentencing, and you'll be asked to provide information
22 for that report.

23 And your attorney, Ms. Lunt, the Assistant Federal
24 Public Defender, will be with you when you meet with the
25 U.S. Probation Officer.

1 And I'll permit both you and Ms. Lunt to review that
2 presentence investigation report and to note any objections to
3 it before the sentencing hearing. And both you and Ms. Lunt
4 will be afforded the opportunity to speak on your behalf at the
5 sentencing hearing, so I will refer you to the U.S. Probation
6 Office for a presentence investigation report.

7 Your date of sentencing will be February the 3rd,
8 2016, at 3 o'clock p.m. That's a Wednesday.

9 Is that good for the Government, Mr. Fuchs?

10 **MR. FUCHS:** Your Honor, there's just a bit of a
11 wrinkle here. Mr. Jones is going forward with his violation of
12 probation in state court, I believe, in February.

13 **MS. LUNT:** February 14th.

14 **MR. FUCHS:** February 14th. Because we are going to
15 make a recommendation, because he's in primary state custody,
16 to run his time concurrent, it may make sense, I think for the
17 sake of efficiency, to sentence him after that date.

18 **THE COURT:** All right. What I suggest you do is --
19 I'm going to enter an order as to February the 3rd.

20 **MR. FUCHS:** Yes, sir.

21 **THE COURT:** But if you would -- my assistant,
22 Ms. Foster, has left for the day. If you just will contact
23 her, get on the phone, and she'll give you a new date. And
24 then she'll enter an order changing that date.

25 We'll sign a regular sentencing order now, but we will

1 change it.

2 **MR. FUCHS:** Thank you, Your Honor.

3 **THE COURT:** Okay.

4 **MS. LUNT:** Thank you.

5 **THE COURT:** Ms. Lunt and Mr. Fuchs, the normal
6 sentencing order requires that any sentencing memorandum be
7 submitted 14 days prior to the date of sentencing. As
8 Mr. Fuchs might tell you, as to me, that's observed more in the
9 breach than the observance. I don't want to be getting it the
10 day before.

11 **MS. LUNT:** Absolutely.

12 **THE COURT:** But I'm not that uptight about getting it
13 two weeks ahead of time.

14 If anyone is going to call any witnesses, I do want to
15 have you notify each other and the Court two weeks prior. But
16 just get your sentencing memorandums sometime in during that
17 two-week window. But I'm not that uptight about it being the
18 full two weeks.

19 And the initial presentence report will be prepared by
20 December 15th. Your objections should be noted by December the
21 29th, and I'll sign this order today.

22 But if you just -- Mr. Fuchs, why don't you coordinate
23 with Ms. Foster and get Ms. Lunt on the line. And in the
24 next -- tomorrow or Monday or whatever, you can get a new date
25 on this.

1 **MR. FUCHS:** I will. Thank you, Your Honor.

2 **THE COURT:** Okay. The defendant is now in federal
3 custody or state custody?

4 **MS. LUNT:** He's in state custody, Your Honor.

5 **THE COURT:** He's in state custody? He was writted
6 over here today; is that right?

7 **MS. LUNT:** Yes.

8 **MR. FUCHS:** That's correct.

9 **THE COURT:** Okay. So you'll get credit for any time
10 served in federal custody, Mr. Jones.

11 But as to state custody, depending upon how it
12 applies, I can make a recommendation to the Bureau of Prisons
13 that you get credit for time in state custody. But it's a
14 little more complicated.

15 So to the extent that you're not in federal custody, I
16 can't give you any credit for time you're spending now, because
17 it's not within the auspices of this case.

18 But Ms. Lunt will explain that to you.

19 So I've signed this regular sentencing order,
20 Mrs. Smith. Here we go.

21 Is there anything further from the point of view of
22 the Government on this matter, Mr. Fuchs?

23 **MR. FUCHS:** No, Your Honor.

24 **THE COURT:** Is there anything further from the point
25 of view of the defense, Ms. Lunt?

MS. LUNT: No, Your Honor.

THE COURT: Okay. Well, Mr. Fuchs, nice to see you.

Ms. Lunt, nice to have you back here. You need to come back more often. Nice to see you.

MS. LUNT: Thank you.

THE COURT: And, Mr. Jones, I'll certainly postpone the sentencing to wait and see what happens in your state case. And I'll certainly -- as counsel have agreed, I'll make the sentence here concurrent with whatever is in the state case. We'll deal with that in some fashion.

So with that, court staff, we've had a busy day and we're finished for the day.

So with that, this court stands adjourned.

(Court adjourned at 4:35 p.m.)

I, Douglas J. Zweizing, RDR, CRR, do hereby certify that the foregoing is a correct transcript from the stenographic record of proceedings in the above-entitled matter.

/s/

Douglas J. Zweizig, RDR, CRR
Registered Diplomate Reporter
Certified Realtime Reporter
Federal Official Court Reporter

DATE: September 26, 2017

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2017 [1] 30/22		
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	<p>H</p> <p>had [4] 2/3 14/12 19/8 30/11 half [2] 18/19 19/18 hand [2] 6/4 6/6 hanging [1] 5/1 happens [1] 30/7 harsher [1] 12/2 has [7] 9/8 9/9 9/12 10/5 18/3 21/22 27/22 have [33] He [2] 2/9 29/5 he's [4] 2/10 27/15 29/4 29/5 hear [2] 16/4 20/20</p>	

I	involved [1] 16/9 involves [1] 13/11 is [69] isn't [1] 22/6 issuance [1] 22/2 issue [1] 12/8 issued [1] 14/5 issues [1] 16/22 it [32] it's [13] 3/1 5/15 7/9 12/20 15/14 16/8 16/10 16/23 19/1 26/12 26/13 29/13 29/17	5/22 7/11 8/3 8/12 9/2 9/12 9/14 11/2 17/22 19/9 20/2 22/8 25/4 25/18 26/23 27/1 27/3 28/5 28/23 29/18 29/25 30/3	Mrs. [1] 29/20 Mrs. Smith [1] 29/20 Ms. [29] 2/23 4/23 4/25 5/8 5/9 5/22 7/11 8/3 8/12 9/2 9/14 11/2 17/15 17/22 19/9 20/2 22/8 25/4 25/18 26/23 27/1 27/3 27/22 28/5 28/23 28/23 29/18 29/25 30/3
J	January [1] 14/9 JH [1] 24/11 JONES [29] 1/5 2/6 2/22 3/3 3/6 4/9 6/5 6/13 7/1 8/8 9/21 11/5 12/13 13/8 14/4 16/13 17/14 18/2 19/4 22/23 25/3 25/6 25/14 25/22 26/4 26/19 27/11 29/10 30/6 Jones' [1] 24/4 Jones, [1] 6/8 judge [2] 1/11 12/1 judges [2] 15/6 15/6 jurors [2] 19/24 20/12 jury [5] 8/24 19/23 20/2 21/17 21/20 just [16] 5/1 6/11 7/11 11/16 12/11 13/2 13/10 14/3 19/19 22/6 22/14 23/4 27/10 27/22 28/16 28/22	Madam [1] 6/2 Madam Clerk [1] 6/2 made [3] 8/9 13/10 14/12 make [7] 11/16 17/11 23/19 27/15 27/16 29/12 30/8 making [1] 7/6 mandatory [15] 3/24 3/25 4/1 4/3 4/5 14/13 14/16 14/19 14/20 14/22 14/23 14/24 14/25 15/2 16/18 marked [1] 9/13 MARYLAND [5] 1/1 1/9 1/25 23/10 24/5 matter [4] 2/5 13/21 29/22 30/17 maximum [2] 12/16 12/17 maximums [1] 12/22 may [11] 6/6 11/4 12/2 12/2 12/6 18/18 18/19 23/9 23/17 24/2 27/16 May 28th [2] 23/9 24/2 maybe [3] 18/6 18/9 18/10 McGuinness [5] 1/20 4/23 4/25 5/8 17/15 me [10] 4/25 5/13 5/18 13/10 14/3 17/6 17/24 18/4 26/14 28/8 mean [1] 11/14 meaning [2] 19/12 22/6 means [2] 4/9 15/7 medication [1] 8/1 meet [1] 26/24 Melissa [2] 1/20 4/23 Melissa McGuinness [1] 1/20 memorandum [1] 28/6 memorandums [1] 28/16 mental [1] 7/23 mentioned [1] 17/21 might [5] 8/19 11/5 11/21 18/14 28/8 millimeter [1] 24/12 million [1] 12/19 minimum [6] 3/24 3/25 4/1 4/3 4/6 14/23 minute [1] 16/4 minutes [1] 23/18 Mirandized [1] 24/14 mixture [2] 3/9 23/11 Model [2] 24/11 24/12 modifications [1] 25/4 moments [1] 23/1 Monday [2] 19/20 28/24 monitored [1] 13/13 months [6] 3/20 4/11 12/22 16/24 17/2 19/2 more [7] 3/14 4/11 4/11 18/10 28/8 29/14 30/4 Mr. [43] Mr. Fuchs [18] 2/18 3/23 5/9 5/10 5/21 12/8 16/4 16/16 17/23 21/8 23/24 25/2 27/9 28/5 28/8 28/22 29/22 30/2 Mr. Jones [25] 2/22 3/3 3/6 4/9 6/13 7/1 8/8 9/21 11/5 12/13 13/8 14/4 16/13 17/14 18/2 19/4 22/23 25/3 25/6 25/14 26/4 26/19 27/11 29/10 30/6	Ms. Foster [2] 27/22 28/23 Ms. Lunt [23] 2/23 5/9 5/22 7/11 8/3 8/12 9/2 9/14 11/2 17/22 19/9 20/2 22/8 25/4 25/18 26/23 27/1 27/3 28/5 28/23 29/18 29/25 30/3 Ms. McGuinness [3] 4/25 5/8 17/15 Ms. Melissa McGuinness [1] 4/23 much [2] 5/6 25/2 multistep [1] 15/14 must [1] 13/1 my [4] 3/2 7/5 7/9 27/21
K	keep [1] 2/3 key [2] 14/5 15/12 kind [2] 7/23 8/1 knock [1] 18/15 know [3] 5/4 12/7 25/19 knowing [1] 26/4 knowingly [1] 23/10 known [1] 19/4	name [1] 6/7 names [2] 22/8 22/9 narcotic [1] 7/23 narcotics [3] 24/16 24/23 25/1 nature [1] 25/25 need [1] 30/3 never [1] 21/21 new [2] 27/23 28/24 next [1] 28/24 nice [7] 2/18 2/23 3/1 5/7 30/2 30/3 30/4 no [21] 1/4 3/25 5/5 7/24 8/2 9/7 10/7 14/23 16/19 16/22 18/20 19/10 19/12 22/12 22/21 23/2 25/5 25/20 26/12 29/23 30/1 No. [4] 2/6 24/12 24/13 25/23 No. RDB-15-0457 [1] 2/6 normal [1] 28/5 NORTHERN [1] 1/2 not [34] note [6] 5/12 17/5 17/22 17/23 23/22 27/2 noted [5] 12/15 14/14 15/14 16/23 28/20 nothing [5] 14/19 14/21 14/24 15/2 16/18 notify [1] 28/15 November [4] 1/8 9/10 19/19 19/20 November 3rd [1] 9/10 now [14] 4/8 7/2 14/6 17/7 17/13 19/10 19/16 22/22 23/6 26/7 26/14 27/25 29/2 29/16	
L	language [1] 7/20 last [1] 14/6 later [1] 7/5 least [1] 12/19 left [1] 27/22 less [1] 4/16 Let [3] 13/10 14/3 18/4 letter [3] 9/10 9/12 23/23 level [1] 16/11 licenses [1] 11/5 light [2] 5/16 16/8 like [1] 5/8 limit [1] 22/21 line [2] 11/14 28/23 Lisa [3] 1/17 2/21 9/12 Lisa Lunt [2] 2/21 9/12 Lisa W. Lunt [1] 1/17 little [2] 18/10 29/14 loans [1] 11/7 located [1] 24/4 Lombard [1] 1/24 look [2] 15/7 15/18 lose [8] 10/22 10/23 10/23 11/4 11/5 11/8 11/10 11/17 Lunt [26] 1/17 2/21 2/23 5/9	o'clock [1] 27/8 oath [1] 7/2 objection [1] 5/13 objections [4] 17/22 17/23 27/2 28/20 obligations [1] 17/3 observance [1] 28/9 observed [1] 28/8 October [1] 6/13 of VI [1] 16/12 off [1] 18/15 offender [2] 16/9 16/15 offense [12] 10/9 10/12 10/15	

O	offense... [9] 10/18 11/21 12/17 16/11 19/11 23/14 26/6 26/8 26/15 office [4] 13/13 17/3 22/12 27/6 officer [7] 1/20 4/24 5/8 15/18 17/15 26/20 26/25 officers [3] 24/2 24/7 24/10 Official [2] 1/24 30/21 often [1] 30/4 Okay [9] 5/4 5/6 5/25 7/12 11/14 28/3 29/2 29/9 30/2 one [7] 4/10 4/11 4/16 17/15 18/6 18/9 22/19 one-third [2] 18/6 18/9 only [2] 2/9 12/10 opinions [2] 14/5 15/13 opportunity [2] 17/17 27/4 order [6] 27/19 27/24 27/25 28/6 28/21 29/19 ordinarily [1] 15/8 original [1] 9/12 other [5] 15/19 16/22 23/3 24/9 28/15 our [1] 21/3 out [3] 18/5 18/18 18/19 outline [1] 14/7 over [4] 14/3 18/14 19/16 29/6 own [3] 10/8 20/23 20/25	permit [2] 21/4 27/1 permits [2] 11/5 19/6 phone [1] 27/23 pistol [2] 24/11 24/13 pistols [1] 24/17 Plaintiff [2] 1/3 1/14 plea [39] plead [5] 6/20 10/6 19/21 25/12 25/15 pleading [5] 10/8 10/13 19/10 23/6 23/15 please [4] 2/15 6/4 6/7 25/3 pleasure [1] 3/2 pled [1] 14/21 point [4] 24/11 24/17 29/21 29/24 police [2] 24/2 24/20 policy [1] 9/17 possessed [6] 23/10 23/12 24/21 24/22 24/24 24/25 possessing [1] 24/15 possession [5] 2/11 3/6 3/9 10/13 26/16 Possibility [1] 8/22 possible [2] 13/7 13/25 postpone [1] 30/6 potentiality [1] 12/6 predicate [1] 16/5 prepare [1] 5/8 prepared [3] 23/20 26/20 28/19 prepares [1] 17/16 Present [1] 1/19 presentence [6] 5/16 17/16 26/19 27/2 27/6 28/19 presumed [1] 20/6 presuming [1] 5/15 primary [1] 27/15 prior [5] 16/10 21/8 24/20 28/7 28/15 prison [3] 13/2 13/16 13/17 Prisons [2] 18/13 29/12 privilege [1] 11/8 probation [12] 1/20 4/23 5/8 11/21 13/13 15/18 17/7 17/15 26/20 26/25 27/5 27/12 Procedure [1] 3/16 proceed [3] 6/1 7/11 8/4 proceeding [1] 9/18 proceedings [2] 3/18 30/17 process [6] 5/25 14/3 14/7 15/15 15/21 22/2 proffering [4] 2/7 2/10 3/12 3/14 programs [1] 11/8 projectile [1] 24/18 property [2] 12/7 12/9 prosecution [1] 7/6 protect [1] 25/1 prove [4] 20/8 21/22 21/23 23/20 provide [1] 26/21 provided [2] 12/17 12/22 provisions [2] 14/12 14/15 public [10] 1/18 2/21 5/10 8/14 9/11 11/6 11/6 19/9 22/11 26/24 pursuant [4] 3/15 4/15 9/20 9/21 put [3] 6/6 21/13 21/17	questioned [1] 21/8 questions [2] 7/5 7/10
R	raise [1] 6/4 range [5] 5/15 15/8 15/17 15/20 17/14 RDB [3] 1/4 2/6 25/23 RDB-15-0457 [1] 1/4 RDR [3] 1/23 30/15 30/19 reached [1] 15/1 read [1] 7/19 ready [1] 6/1 really [1] 18/8 Realtime [1] 30/20 rearraignment [2] 1/12 6/1 reason [5] 4/10 5/16 5/20 25/18 25/20 reasonable [3] 5/15 20/9 21/22 receive [2] 12/2 17/6 received [1] 8/7 recently [1] 7/22 recommend [2] 17/2 17/5 recommendation [3] 17/12 27/15 29/12 record [5] 2/14 6/7 16/10 21/9 30/17 recovered [2] 24/8 24/10 recovery [1] 24/20 refer [1] 27/5 reference [1] 13/11 Registered [1] 30/20 regular [2] 27/25 29/19 release [4] 12/19 13/11 13/11 13/15 relevant [1] 25/25 rendered [1] 15/5 report [8] 5/9 5/16 17/16 26/19 26/22 27/2 27/6 28/19 Reported [1] 1/22 Reporter [4] 1/24 30/20 30/20 30/21 representation [2] 9/3 23/19 represented [1] 22/11 request [1] 19/13 require [1] 22/14 required [1] 22/13 requires [1] 28/6 respect [4] 11/5 13/24 16/4 18/24 retrieve [1] 9/15 return [2] 5/18 17/4 review [4] 5/12 5/14 17/17 27/1 RICHARD [1] 1/11 right [25] 2/24 3/24 4/8 5/6 6/4 7/16 7/19 10/22 10/23 10/23 17/11 19/10 19/12 19/21 19/22 20/1 20/19 20/20 20/24 22/2 22/21 23/3 23/17 27/18 29/6 rights [7] 10/19 11/4 11/10 18/24 18/25 19/3 23/4 Road [1] 24/4 rule [3] 3/15 4/9 4/22 Rule 11 [1] 3/15 Rules [1] 3/15 run [1] 27/16	S	
Q	sake [1] 27/17 same [1] 4/15 satisfied [5] 8/3 9/2 13/6 13/24 26/4		

S	<p>say [1] 11/9 Schedule [1] 3/10 Schedule I [1] 3/10 school [2] 7/14 7/16 se [1] 10/2 search [2] 24/3 24/7 search-and-seizure [1] 24/3 seated [1] 23/17 second [1] 15/12 Section [5] 2/13 3/8 10/15 11/9 26/18 Section 841 [3] 2/13 10/15 26/18 Section 922 [1] 3/8 see [8] 2/18 2/23 3/1 17/21 20/20 30/2 30/4 30/7 seek [3] 4/17 19/6 19/11 seeking [1] 19/13 seizure [1] 24/3 selected [1] 19/24 selection [1] 20/2 semi [2] 24/11 24/13 semi-automatic [2] 24/11 24/13 sense [1] 27/16 sent [1] 13/16 sentence [31] sentencing [16] 9/18 14/4 14/7 14/10 17/1 26/21 27/3 27/5 27/7 27/25 28/6 28/6 28/7 28/16 29/19 30/7 separate [1] 13/21 separately [1] 20/14 September [1] 30/22 Serial [2] 24/12 24/13 Serial No. 314640 [1] 24/12 Serial No. BER191826Z [1] 24/13 serve [2] 18/6 18/9 served [3] 13/18 22/13 29/10 services [1] 26/3 serving [1] 17/7 set [7] 9/9 13/12 17/2 19/17 19/18 23/7 26/8 seven [1] 18/7 she [2] 5/12 22/9 she'll [2] 27/23 27/24 she's [2] 9/3 9/6 shifts [1] 21/21 should [4] 15/6 21/18 25/19 28/20 shown [1] 24/1 sides [1] 5/12 sign [2] 27/25 28/21 signed [1] 29/19 sir [13] 3/21 3/25 4/4 5/24 6/4 7/1 7/18 7/21 9/4 13/4 13/5 21/24 27/20 situation [1] 8/16 Smith [1] 29/20 so [15] 5/25 7/9 15/20 16/18 18/8 18/14 18/18 19/21 23/20 27/5 29/9 29/15 29/19 30/11 30/13 some [3] 5/20 18/14 30/10 sometime [1] 28/16 sorry [4] 2/3 26/9 26/13 26/14 speak [1] 27/4 special [1] 13/1 specifically [7] 10/15 12/17 15/24 21/17 24/25 25/14 26/16 spending [1] 29/16</p>
T	<p>take [1] 15/6 talk [1] 7/11 tell [5] 5/21 5/21 21/17 21/18 28/8 ten [11] 4/11 4/17 11/15 15/9 16/20 18/4 18/8 18/8 18/11 18/12 18/18 ten-year [6] 15/9 18/4 18/8 18/8 18/11 18/12 test [1] 24/17 test-fired [1] 24/17 tested [1] 24/16 testify [7] 20/24 20/25 21/5 21/6 21/13 21/16 22/3 than [5] 4/11 4/11 4/17 18/10 28/9 thank [10] 3/2 5/6 6/6 6/25 23/25 25/2 28/2 28/4 29/1 30/5 that [132] that's [14] 3/23 5/20 11/3 12/7 12/19 15/20 16/17 16/19 16/19 18/10 19/17 27/8 28/8 29/8 their [1] 24/20 them [2] 21/18 23/4 themselves [1] 2/14</p>
U	<p>U.S [6] 1/20 4/23 5/11 9/10 17/3 23/18 U.S. [6] 15/18 17/15 19/5 26/20 26/25 27/5 U.S. Congress [1] 19/5 U.S. Probation [5] 15/18 17/15 26/20 26/25 27/5 ultimately [2] 5/13 17/23 unanimous [2] 20/12 20/13 under [7] 4/9 4/22 7/2 7/25 15/4 19/3 19/3 understand [57] UNITED [14] 1/1 1/3 1/15 2/5 2/12 2/17 3/8 10/14 14/6 14/8 14/9 15/14 25/22 26/18 United States [6] 2/5 2/17 14/6 14/9 15/14 25/22 unless [1] 20/24 until [1] 17/14</p>

<p>U</p> <p>up [2] 2/24 23/3 Upmanor [1] 24/4 Upmanor Road [1] 24/4 upon [2] 23/18 29/11 uptight [2] 28/12 28/17 used [2] 7/5 21/14</p>	<p>29/18 willing [1] 4/8 window [1] 28/17 wish [3] 6/17 6/20 25/12 withdraw [2] 4/12 4/18 within [1] 29/17 without [1] 13/18 witness [1] 21/4 witnesses [6] 8/19 20/20 20/21 22/3 22/9 28/14 won't [2] 5/17 5/19 work [2] 18/18 18/19 works [1] 18/11 would [27] 2/14 4/3 11/8 12/20 13/2 13/21 14/20 15/8 16/20 17/5 19/23 20/8 20/11 20/13 20/23 21/14 21/17 21/18 21/20 22/9 22/12 22/13 22/21 23/20 23/22 24/1 27/21 wrinkle [1] 27/11 write [1] 7/19 writtend [1] 29/5 written [2] 8/8 26/19</p>	
<p>V</p>	<p>verdict [4] 20/12 20/14 22/20 22/20</p>	
<p>W</p>	<p>versus [4] 2/5 14/8 15/13 25/22 very [3] 5/6 7/9 25/2 VI [1] 16/12 view [2] 29/21 29/25 violate [1] 13/14 violated [1] 11/21 violation [7] 2/12 3/7 10/14 13/17 17/7 26/17 27/11 voluntarily [1] 20/24 voluntary [1] 26/4 vote [1] 10/23 vouchers [1] 11/10</p> <p>W. [1] 1/17 wages [1] 13/3 wait [1] 30/7 waiting [1] 2/3 waive [1] 19/3 waived [2] 18/25 23/2 waiver [1] 19/16 want [4] 8/19 19/16 28/9 28/14 wanted [1] 22/8 warrant [1] 24/3 was [8] 4/10 12/15 19/5 19/18 22/18 24/6 24/14 29/5 way [3] 10/5 18/11 21/19 we [4] 4/4 27/14 27/25 29/20 we'll [4] 7/11 7/11 27/25 30/10 we're [2] 5/25 30/12 we've [2] 2/3 30/11 weapons [3] 12/10 12/11 12/12 Wednesday [1] 27/8 week [3] 19/18 19/19 28/17 weeks [3] 28/13 28/15 28/18 Welcome [1] 3/1 well [5] 17/12 22/20 23/3 24/8 30/2 went [3] 8/20 20/14 21/16 were [13] 4/16 6/11 6/15 7/4 11/20 11/25 13/14 14/15 14/16 22/19 24/16 24/17 24/18 what [8] 4/1 4/9 6/9 14/25 15/7 19/4 27/18 30/7 whatever [3] 18/19 28/24 30/9 when [3] 5/18 15/7 26/24 whether [1] 9/19 which [11] 3/17 9/3 9/6 9/9 10/12 14/12 15/7 19/23 22/6 23/6 23/15 who [1] 5/4 whole [2] 8/16 18/15 whom [1] 22/8 whose [1] 26/3 why [3] 16/19 25/19 28/22 will [28] 3/17 5/8 5/9 5/9 5/12 5/13 5/17 5/21 10/19 15/2 15/16 15/17 16/20 17/1 17/5 17/11 23/2 23/2 26/20 26/24 27/4 27/5 27/7 27/22 27/25 28/19 29/1</p>	<p>year [12] 6/11 6/14 15/9 18/4 18/8 18/8 18/11 18/12 18/13 18/15 19/19 23/9 years [13] 4/4 4/11 4/17 11/15 12/19 12/21 14/6 16/20 18/5 18/7 18/14 18/19 18/19 years' [1] 12/18 Yes [74] yet [1] 5/5 you [194] you'd [6] 4/11 19/22 20/1 20/6 20/18 22/1 you'll [5] 9/14 17/21 25/3 26/21 29/9 you're [15] 3/12 3/14 5/1 7/2 10/9 10/13 11/14 17/7 18/6 19/10 22/11 23/6 23/15 29/15 29/16 you've [5] 4/25 9/5 14/25 16/20 19/8 your [58] Your Honor [13] 2/16 2/20 4/7 5/3 12/10 23/25 24/1 25/5 25/20 27/10 28/2 29/1 29/4 yourself [1] 21/5</p> <p>Z</p> <p>Zweizing [3] 1/23 30/15 30/19</p>